

ST 02-0118-GIL 05/23/2002 TELECOMMUNICATION EXCISE TAX

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495. (This is a GIL).

May 23, 2002

Dear Xxxxx:

This letter is in response to your letter dated May 17, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at [www.revenue.state.il.us/Laws/regs/part1200/](http://www.revenue.state.il.us/Laws/regs/part1200/).

In your letter, you have stated and made inquiry as follows:

The OFFICE is conducting a brief survey on certain states' tax treatment on telecommunication services. We would appreciate your participation by filling out the attached survey and email it back to us. Please provide relevant statutory or administrative code citations were applicable.

If you have any questions please call me or email me at the above address. At the end of the survey, space is provided to insert your contact information. Please mention if you would like a copy of this survey when complete.

Thank you for your participation.

**SURVEY ON THE TAX TREATMENT OF  
TELECOMMUNICATIONS SERVICES  
Office**

*Local Exchange Carriers (LECs):*

1. How are the services provided by LECs taxed? Are they subject to sales and use taxes, excise taxes, both? If a special tax, what is the basis and rate of the tax?

Sales & Use: \_\_\_\_\_ Rate: \_\_\_\_\_ Code Citation: \_\_\_\_\_  
Excise: \_\_\_\_\_ Rate: \_\_\_\_\_ Code Citation: \_\_\_\_\_

Other (explain with rate and give code citation):

2. Are there any specific services provided by the LECs exempt/excluded from taxation? For example, WATS/800 or private line services.

WATS/800: \_\_\_\_\_ Code Citation: \_\_\_\_\_

Private Lines: \_\_\_\_\_ Code Citation: \_\_\_\_\_

Sales for Resale: \_\_\_\_\_ Code Citation: \_\_\_\_\_

Others (list with code citation):

3. Are LECs subject to general business taxes (such as a corporate income tax)? Do special rules apply (i.e., different rate or base)? Are they subject to a special business tax (such as a utility excise tax)? If a special business tax, what is the basis and rate? Does more than one business tax apply?

Corporate Income (including Michigan's SBT): \_\_\_\_\_ Rate: \_\_\_\_\_

Code Citation: \_\_\_\_\_

Special Tax (explain with rate, and code citation):

4. Is the tangible and/or real property of LECs subject to general business property taxes or do special rules apply? Is the property assessed locally or by the state?

Real same: \_\_\_\_\_ Real different (explain with code citation):

Tangible same: \_\_\_\_\_ Tangible different (explain with code citation):

Locally or State assessed: \_\_\_\_\_

*Inter-Exchange Carriers (IXs), or long distance service providers:*

1. How are the services provided by IXs taxed? Are they subject to sales and use taxes, excise taxes, both? If a special tax, what is the basis and rate of the tax?

Sales & Use: \_\_\_\_\_ Rate: \_\_\_\_\_ Code Citation: \_\_\_\_\_

Excise: \_\_\_\_\_ Rate: \_\_\_\_\_ Code Citation: \_\_\_\_\_

Other (explain with rate and give code citation):

2. Are there any specific services provided by the IXs exempt/excluded from taxation? For example, WATS/800 or private line services.

WATS/800: \_\_\_\_\_ Code Citation: \_\_\_\_\_

Private Lines: \_\_\_\_\_ Code Citation: \_\_\_\_\_

Sales for Resale: \_\_\_\_\_ Code Citation: \_\_\_\_\_

Others (list with code citation):

3. Are IXs subject to general business taxes (such as a corporate income tax)? Do special rules apply (i.e., different rate or base)? Are they subject to a special business tax (such as a utility excise tax)? If a special business tax, what is the basis and rate? Does more than one tax apply?

Corporate Income (including Michigan's SBT): \_\_\_\_ Rate: \_\_\_\_

Code Citation: \_\_\_\_

Special Tax (explain with rate, and code citation):

4. Is the tangible and/or real property of IXs subject to general business property taxes or do special rules apply? Is the property assessed locally or by the state?

Real same: \_\_\_\_ Real different (explain with code citation):

Tangible same: \_\_\_\_ Tangible different (explain with code citation):

Locally or State assessed: \_\_\_\_

*General:*

1. How is cable and direct satellite television services taxed?

Sales & Use: \_\_\_\_ Rate: \_\_\_\_ Code Citation: \_\_\_\_

Excise: \_\_\_\_ Rate: \_\_\_\_ Code Citation: \_\_\_\_

Other (explain with rate and give code citation):

2. Is cable television and direct satellite television providers taxed as general businesses (i.e., corporate income tax, property tax) or do special rules apply?

Corporate Income (including Michigan's SBT): \_\_\_\_ Rate: \_\_\_\_

Code Citation: \_\_\_\_

Special Tax (explain with rate, and code citation):

Real same: \_\_\_\_ Real different (explain with code citation):

Tangible same: \_\_\_\_ Tangible different (explain with code citation):

Locally or State assessed: \_\_\_\_

3. Is there recent or pending legislation or serious discussion on telecommunications tax reform in your state? If so, please provide Bill numbers and a method to obtain copies of the Bills.

4. Are telecommunication services provided to 'call centers' specially treated for transaction tax (sales & use, utility excise) purposes?

Exempt: \_\_\_\_\_ Specially treated: \_\_\_\_\_ The same: \_\_\_\_\_  
Code Citation: \_\_\_\_\_

*Contact Information:*

Name:  
Title:  
State:  
Department:  
Phone:  
Email:

The Telecommunications Excise Tax is imposed upon the act or privilege of originating or receiving intrastate or interstate telecommunications in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers. See 86 Ill. Adm. Code 495, enclosed. If Limited Exchange Carriers and Inter-Exchange Carriers are retailers of telecommunications originated or received intrastate or interstate in Illinois, then they are subject to tax.

Pursuant to Section 495.100(a), "gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in this State and for all services and equipment provided in connection therewith by a retailer, valued in money, whether paid in money or otherwise, including cash credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of material used, labor or service cost or any other expense whatsoever.

Please note that retailers of telecommunications who are reselling telecommunications are required to register with the Department, file returns, and remit Telecommunications Excise Tax directly to the Department. Purchases by telecommunications retailers from local and long distance carriers for line time may be purchased without incurring tax by providing these suppliers with resale certificates.

Section 8 of the Act (35 ILCS 630/8) provides that if persons who originate or receive telecommunications in this State claim to be a reseller of such telecommunications, such persons shall apply to the Department for a resale number. Upon approval of the application, the Department shall assign a resale number to the applicant and certify such number to him. Except as provided in the Act, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with sales of telecommunications for resale.

If tax is paid to local and long distance carriers for line time that is purchased for resale, a registered telecommunications provider can take a credit against its Telecommunications Excise Tax liability without filing a claim with the Department. See 86 Ill. Adm. Code 495.130, enclosed. If a reseller of telecommunications who is not required to be registered has paid tax to local or long distance carriers for line time that was for resale, the carrier could refund the tax to the reseller and file a claim for credit with the Department. These provisions are set forth in 35 ILCS 630/10.

Effective January 1, 2003, manner in which local telecommunications taxes are collected will change. See 35 ILCS 635 Telecommunications Infrastructure Maintenance Fee Act and 35 ILCS 636, Simplified Municipal Telecommunications Tax Act. Beginning on January 1, 2003, the Department will collect most municipal telecommunications taxes. The change in the law does not affect the City of Chicago.

Effective January 1, 1998, the Telecommunications Municipal Infrastructure Maintenance Fee Act (Act) (35 ILCS 635/1 et seq.) provides for the imposition of various fees upon telecommunications retailers.

Section 15 of the Act imposes a State infrastructure maintenance fee upon telecommunications retailers, as that term is defined in 35 ILCS 635/10, "equal to 0.5% of all gross charges charged by the telecommunications retailer to service addresses in this State for telecommunications, other than wireless telecommunications, originating or received in this State." (35 ILCS 635/15(b).) Section 15 also provides for an optional infrastructure maintenance fee which telecommunications retailers may pay "with respect to the gross charges charged by the telecommunications retailer to service addresses in a particular municipality for telecommunications, other than wireless telecommunications, originating or received in the municipality...." (35 ILCS 635/15(c).) These fees are collected, enforced and administered by the Illinois Department of Revenue. (35 ILCS 635/25(b).) This tax is unaffected by the January 1, 2003 law change.

Section 20 of the Act provides that municipalities may impose a municipal infrastructure maintenance fee upon telecommunications retailers. This fee is based upon gross charges charged by the telecommunications retailers to service addresses in the municipality for telecommunications originating or received in the municipality. This fee is collected, enforced, and administered by the municipality imposing the fee. (35 ILCS 635/25(c).) This tax will be repealed on January 1, 2003.

Illinois municipalities are also authorized to impose a municipal telecommunications tax. (See 65 ILCS 5/8-11-17.) The tax is imposed on the act or privilege of originating in such municipality or receiving in such municipality intrastate or interstate telecommunications by a person at a rate not to exceed 5% of the gross charges for such telecommunications purchased at retail by such person. (See 65 ILCS 5/8-11-17(a)(1) and 65 ILCS 5/8-11-17(a)(2).) This tax may only be imposed if the municipality does not have in effect an occupation tax imposed on persons engaged in the business of transmitting messages by means of electricity as authorized by Section 8-11-2 (65 ILCS 5/8-11-2) of the Illinois Municipal Code. The municipality imposing the tax provides for its administration and enforcement, not the Illinois Department of Revenue. Therefore, questions regarding this tax should be addressed to the individual municipalities imposing it. There is no equivalent statute for county governments. This tax will be repealed on January 1, 2003.

In addition, the Emergency Telephone System Act provides that "[t]he corporate authorities of any municipality or any county may, subject to the limitations of subsections (c), (d), and (h), and in addition to any tax levied pursuant to Section 8-11-2 of the Illinois Municipal Code, impose a monthly surcharge on billed subscribers of network connection provided by telecommunication carriers engaged in the business of transmitting messages by means of electricity originating within the corporate limits of the municipality or county imposing the surcharge at a rate per network connection determined in accordance with subsection (c)." (See 50 ILCS 750/15.3(a) and (c).) "The surcharge authorized by this Section shall be collected from the subscriber by the telecommunications carrier providing the subscriber the network connection as a separately stated item on the subscriber's bill." (50 ILCS 750/15.3(f).) This surcharge is paid to the municipality, county or Joint Emergency Telephone System Board. (See 50 ILCS 750/15.3(g).) Questions regarding the surcharge should be addressed to the municipality or county imposing it.

There is currently no tax on cable television or satellite television in Illinois.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk  
Enc.